



FREDERICK COUNTY PLANNING COMMISSION

November 13, 2013

TITLE: Hattery Farm, LLC, Section I, Lots 1-24

FILE NUMBER: S-1155, AP 12180 (APFO 12181, FRO 13235)

REQUEST: **Ag Cluster Preliminary Plan Approval**
The Applicant is requesting Preliminary Plan approval for a 24-lot Agricultural Cluster subdivision on a 317.77-acre property, including a modification to allow panhandle lots in a major subdivision.

PROJECT INFORMATION:

ADDRESS/LOCATION: Located on the south side of Harrisville Road, approx 4,000 feet east of Woodville Road.

TAX MAP/PARCEL: Map 71, Parcels 22 & 29

COMP. PLAN: Agricultural/Rural and Natural Resource

ZONING: Agricultural

PLANNING REGION: New Market

WATER/SEWER: No Planned Service

APPLICANT/REPRESENTATIVES:

APPLICANT: Thomas and Debbra Hattery

OWNER: Thomas and Debbra Hattery

SURVEYOR/ENGINEER: Vanmar Associates, Inc.

ARCHITECT: N/A

ATTORNEY: N/A

STAFF: Mike Wilkins, Principal Planner II

RECOMMENDATION: Conditional Approval

ATTACHMENTS:

EXHIBIT 1- Preliminary Plan

EXHIBIT 2- APFO Letter of Understanding

EXHIBIT 3- Panhandle justification statement from Applicant

EXHIBIT 4- Cul-de-sac length justification statement from Applicant

STAFF REPORT

ISSUE

The Applicant is requesting Preliminary Plan approval for a 24-lot Agricultural Cluster subdivision on a 317.77-acre property, including a modification to allow panhandle lots in a major subdivision.

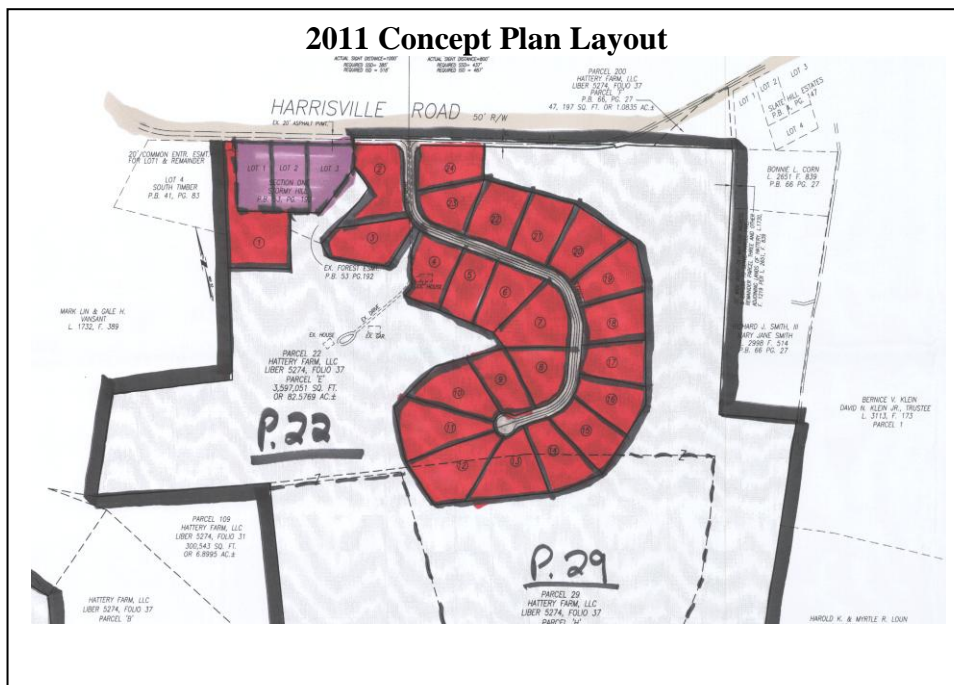
BACKGROUND

The Hattery Farm consists of ten (10) separate parcels. The Applicant proposes to utilize the Agricultural Cluster provisions of §1-19-7.300(C) to transfer the development potential of six of these parcels to a single parcel to create a 24-lot subdivision. As required by the Code, the remaining areas of the six parcels will be added together to create a single remainder consisting of approximately 285 acres.

This property has been the subject of three previous subdivision applications;

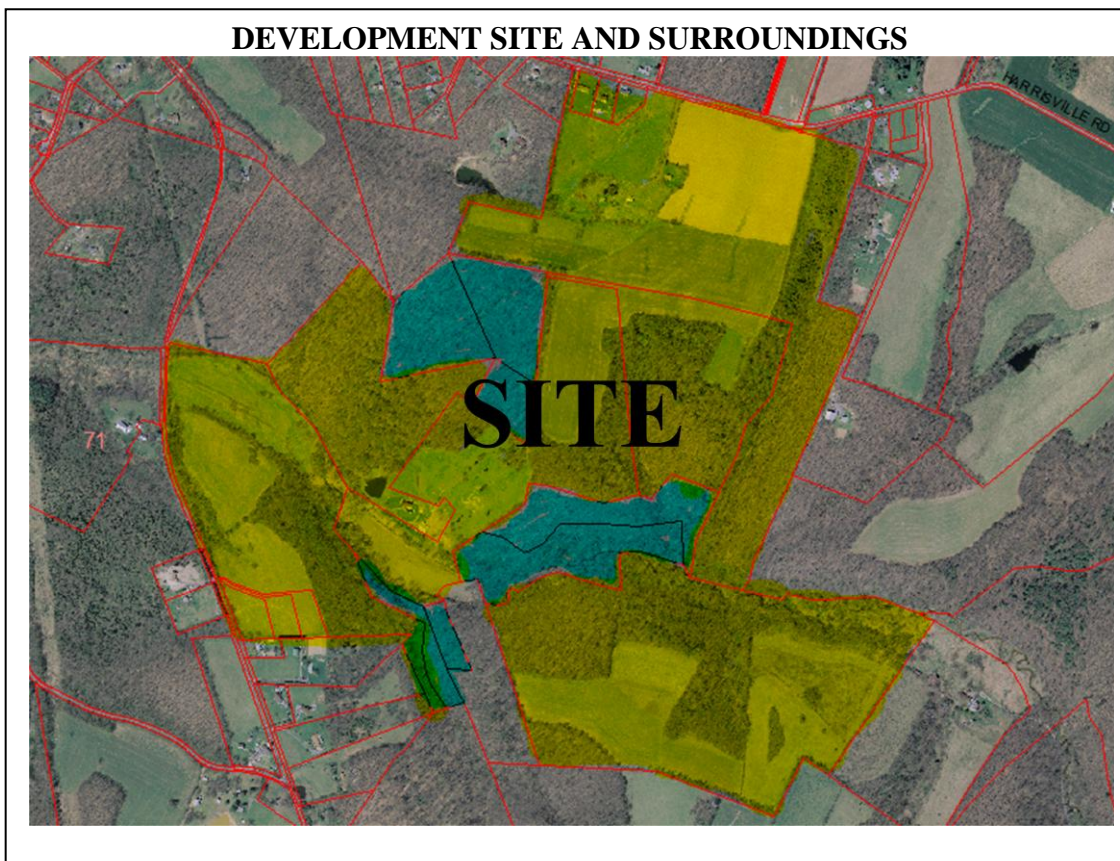
- In 1994, a three (3) lot subdivision was recorded from parcel 64 (Hattery Farm, Section 1, File # M-2080).
- In 2008, a three (3) lot subdivision was recorded from parcel 22 (Stormy Hill, Section 1, File #M-2836).
- On September 14, 2011 the FcPc conditionally approved the Ag Cluster Concept Plan proposing 24 lots (see map below).

With the FcPc's approval of the Ag Cluster Concept Plan in 2011, the FcPc determined that the proposed subdivision meets the Ag Cluster development provisions under §1-19-7.300(C) of the Zoning Ordinance. The FcPc found that the subdivision meets the purpose and intent, location, and layout requirements of the Ag Cluster method of development. While the general lot layout and street design proposed in the Preliminary Plan are in keeping with the 2011 Concept Plan, several changes have been made as a result of percolation testing. There are now gaps between Lot 22 and 23, and between Lot 7 and 8, due to failed percolation test results. In addition, the proposed street length has been extended 500 feet to accommodate the relocation of the lots that were lost during percolation testing.



Existing Site Characteristics

The property consists of six (6) separate parcels containing an aggregate of 317.774 acres. Approximately 150 acres is utilized for farming, and roughly 167 acres is forested. The 34.40 acres proposed to be subdivided into lots is currently used for farming. The site contains two existing houses, one of which is situated on proposed Lot 4.



ANALYSIS

A. ZONING ORDINANCE REQUIREMENTS

1. § 1-19-7.300. AGRICULTURAL DISTRICT.

§1-19-7.300(B): *The minimum lot size for single-family dwellings will be 40,000 square feet...*

§1-19-7.300(C)(2)(c): *Clustering Requirements. Minimum lot size, width and yard areas shall be as specified in the Agricultural District..Lot size shall average not more than 1.5 acres in size with no lots exceeding 2 acres.*

All of the proposed lots meet the minimum 40,000 sq ft lot size requirement. The proposed minimum lot width (100 feet) and yard areas (40 foot front yard, 30 foot rear yard, and 10 foot side yard) meet Agricultural District requirements in accordance with §1-19-6.100 Design Requirements of the Zoning Ordinance.

§1-19-7.300(C)(1): *Clustering: Purpose and intent.*

(a) To encourage the conservation of farmland in the Agricultural Zoning District by planning the residential development allowed in the zone to provide for the best

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obtainable siting, access and location of lots on a tract.

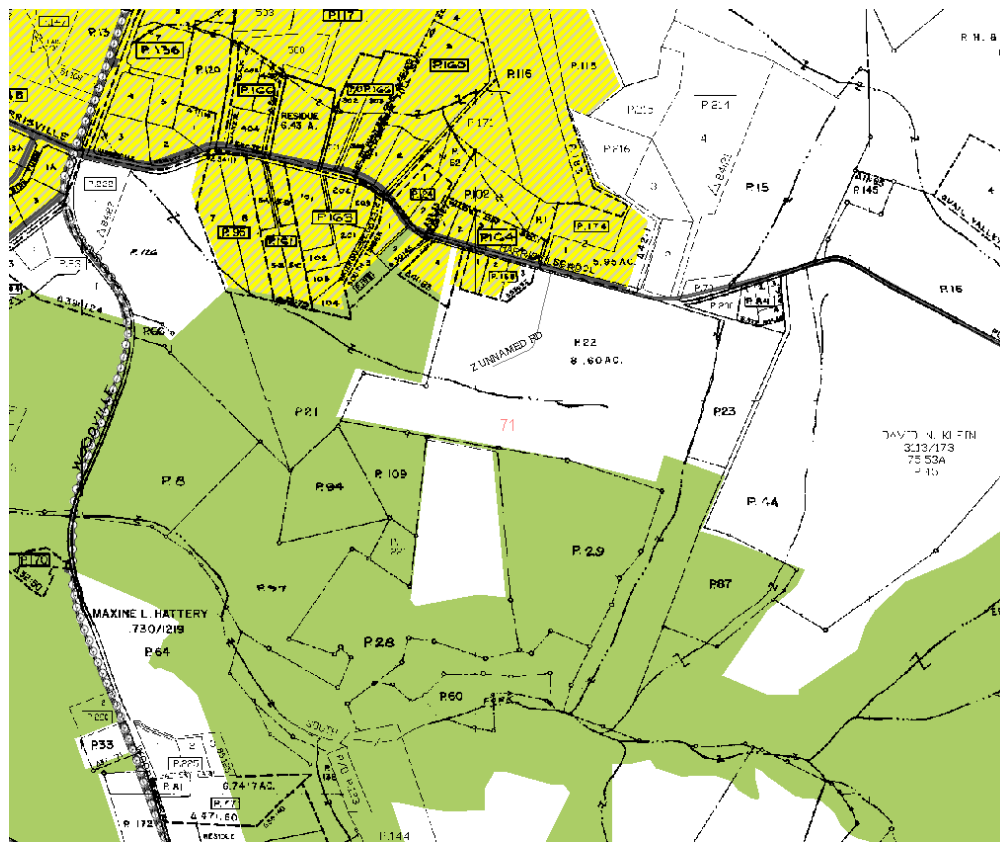
(b) To provide for a well-planned development while minimizing the use of prime agricultural land.

The FcPc determined that the approved Concept Plan met the purpose and intent of the Ag Cluster provisions. The differences between the approved Concept Plan and the Preliminary Plan are outlined in the table below. Due to increased lot area and street dedication, the Preliminary Plan layout utilizes 2.35 additional development acres than the Concept Plan. Though the overall differences are minor, the FcPc must determine that the Preliminary Plan design still meets the Ag Cluster provisions.

	Lot Area	Street Dedication	Min. Lot size	Max. Lot size	Avg. Lot size	Total No. Lots	Total Area of Subdivision
Concept Plan	29.32	2.73	1.00	1.80	1.22	24	32.05
Preliminary Plan	31.10	3.30	1.00	1.85	1.40	24	34.40
Difference	+1.78 ac.	+0.57 ac.	0	+0.05 ac	+0.18 ac.	0	+2.35 ac.

Zoning Ordinance Requirements Findings/Conclusions: The proposed subdivision will meet all Zoning Ordinance requirements if the FcPc determines that the design meets the Ag Cluster provisions.

COMPREHENSIVE PLAN



B. SUBDIVISION REGULATION REQUIREMENTS

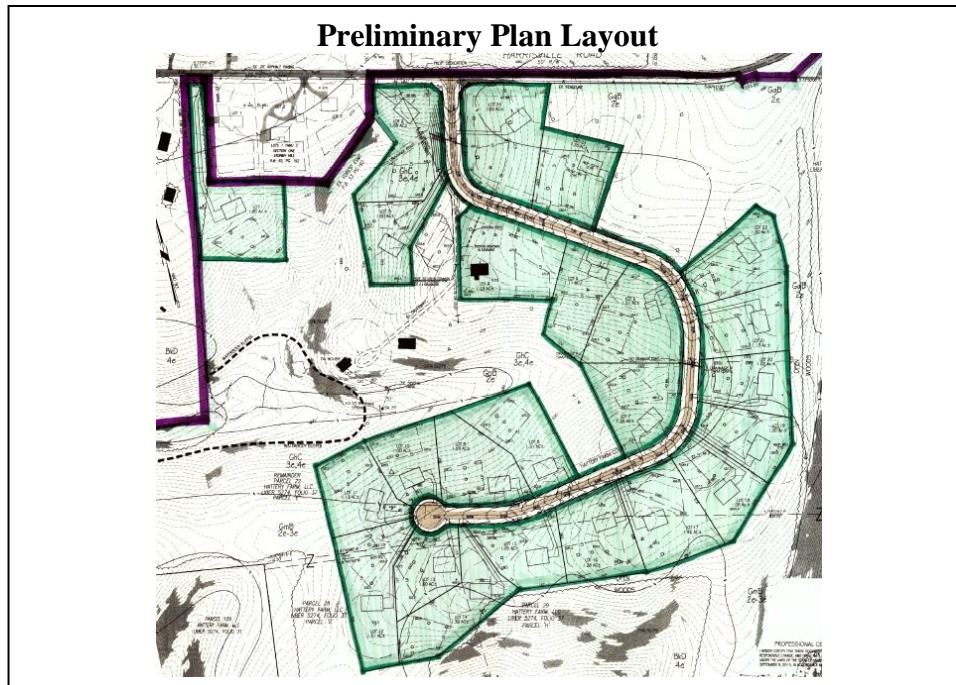
- Land Requirements §1-16-217 (A):** The land use pattern of the Comprehensive Plan and the district regulations of the zoning ordinance shall form the basic theme of the design pattern of the Hattery Farm, LLC Ag Cluster Preliminary Plan

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proposed subdivision.

The subject property reflects a combination of Agricultural/Rural and Natural Resource Comprehensive Plan land use designations (see map above). The proposed land use and subdivision design complies with the Comprehensive Plan and will meet Zoning Ordinance requirements if the FcPc determines that the design meets the Ag Cluster provisions.



- 2. Land Requirements §1-16-217 (B):** *The subdivision design shall take advantage of the uniqueness of the site reflected by topography, soils, the wooded areas, water bodies and the relationship to adjoining subdivisions and land uses, both proposed and existing.*

The site design takes advantage of the site topography, wooded areas, water bodies, and adjoining subdivisions. The cul-de-sac and lot layout is designed to minimize grading as much as practicable. The stream valleys and waterbody buffers are not impacted, and very minimal forest clearing (0.05 acres) is proposed..

- 3. Preliminary Plan, Required Information §1-16-72 (B)(19)(a & b):** *Soil types: (a) Soils type(s) information shall be provided and appropriate boundaries shown on the plan. In the event that "wet soils" are located on or within 100 feet of a proposed residential subdivision, a soils delineation report shall be prepared by a licensed soil scientist or professional engineer registered in the State of Maryland. The soils delineation report shall be submitted for review prior to Planning Commission approval of the plan. The Division may waive this requirement if the "wet soils" are located within open space areas.*

Wet soils are located along the intermittent stream north of proposed Lots 8-11. The soils boundary is over 100 feet away from the proposed house sites therefore a soils delineation report is not required.

- 4. Road Access Requirements. Public Facilities §1-16-12 (B)(3)(b):** *For major subdivisions; Lots must access a publicly-maintained road with a continuously paved surface that is at least 20 feet in width.*

Proposed lots 3-24 will access a proposed internal subdivision street that will have a 20 foot wide paved

travelway. Proposed lots 1 and 2 will directly access Harrisville Road, a 20 foot wide collector road. Lot access will meet the Subdivision Regulations requirements.

5. Other Street Requirements. Development on Dead End Streets §1-16-236 (K):

(K) Subdivisions on cul-de-sac or dead end streets shall be permitted only if approved by the Planning Commission (or county staff) in accordance with this division, the Design Manual, and the following provisions, as applicable:

(1) For proposed development on new or existing cul-de-sac or dead end street(s), except existing dead end streets described in subsection (2) below, the following requirements apply:

(a) Applicant must demonstrate the existence of site specific circumstances that make the design and development of a through street practically infeasible.

(b) In the AG and R-1 zoning district, cul-de-sac or dead end street(s) shall not exceed 1,800 feet in length and shall not serve more than 30 lots, dwelling units, or parcels. The Planning Commission may approve development of a greater number of lots and/or on a longer cul-de-sac or dead end street if the Planning Commission considers the individual property characteristics and the goals and principles of § 1-16-234 as set forth below in § 1-16-236(K)(1)(c).

Section 1-16-236(K)(1)(c). the length of cul-de-sac or dead end street(s) may vary based on the density in the development section or land bay, property shape and size, topography, environmental constraints, lot size, unit types, and proposed land use. The density and length of cul-de-sac or dead end street(s) shall be reviewed by the Planning Commission and approved on a case by case basis.

Section 1-16-234: In designing highways, streets, roads, or common driveways, the subdivider shall be guided by the following principles.

(A) Design to consider the context of the proposed land use, including the existing and proposed land development patterns on adjacent parcels.

(B) Design for opportunities to create interconnections between adjoining parcels.

(C) Provide for adequate vehicular and pedestrian access to all parcels.

(D) Design local residential street systems to minimize through traffic movement and to discourage excessive speed.

(E) Provide reasonable direct access from local street systems to the primary transportation system.

(F) Local transportation systems and land development patterns shall not conflict with the efficiency of bordering arterial routes.

(G) Provide for safety, efficiency, and convenience of all users of the transportation system.

(H) Pedestrian-vehicular conflict points shall be minimized.

(I) Design to preserve, enhance, or incorporate natural, community, and historic resources.

(J) Be suitably located and designed/improved to accommodate prospective traffic, emergency service vehicles, and road maintenance equipment.

(K) Sidewalk, street design, right-of-way and paving shall be in accordance with these regulations and the County Design Manual.

The previously approved Concept Plan for this development proposed a 1,800 foot long cul-de-sac. The current application proposes a 2,300 foot long cul-de-sac (Hattery Farm Court). Several of the lot locations shown on the approved Concept Plan failed percolation testing (the areas between lots 22-23, and lots 7-8). Successful percolation testing was conducted beyond the proposed 1,800 foot long cul-de-sac, resulting in the proposed extension of the cul-de-sac. The Applicant has submitted a justification statement outlining the individual property characteristics and how the goals and principles of § 1-16-234 are met (Exhibit 4).

Staff recommends that the Planning Commission consider the individual property characteristics, the goals and principles of § 1-16-234 and § 1-16-236(K)(1)(c), the public safety risk to future residents, circulation inefficiencies, and the history of previous plan approvals for this development to determine if the proposed 2,300 foot long dead end road system serving 24 lots is appropriate.

- 6. Lot Size and Shape. Panhandle Lots §1-16-219 (C)(2):** *Panhandle lots may be approved by modification of the Planning Commission in major subdivisions only when it is determined by the Commission that “excellence of design” will be achieved or that such lots are inaccessible to the road due to odd shape and/or topographical constraints. In each case, the Planning Commission will determine “excellence of design” based on the spatial relationship of the panhandle lot to other lots and the public road. Only physical design criteria such as odd shape and road inaccessibility, topography, existing utilities, proposed and existing well and septic constraints (Health Department criteria) and natural or man-made features shall be used by the Planning Commission in granting modifications for panhandle lots in major subdivisions.*

Three panhandle lots (12.5% of the lot total) are proposed in this subdivision:

- Lot 1, located in the Northwest corner of the development, accesses Harrisville Road via a 50 foot wide, 291 foot long panhandle. The proposed driveway will only serve this lot. Staff has no objection to this panhandle as it utilizes an existing 50 foot wide strip of land between two existing subdivisions and allows this lot to be clustered among previously recorded lots.
- Lot 3, located 300 feet from the entrance to the subdivision, accesses Hattery Farm Court via a 30 foot wide, 170 foot long panhandle (measured from the road to the point where the 100 foot lot width is achieved). The proposed driveway will only serve this lot. The proposed house location on this lot is roughly the same distance from the road as the existing house on adjoining Lot 4.
- Lot 11, located at the terminus of Hattery Farm Court. This is considered a panhandle lot and not a taper lot because the lot lines break before the minimum 100 foot lot width is achieved (see definition of “Lot Types” under §1-16-12.). This lot will be served by its own driveway.

In order to approve the panhandle lots the Planning Commission must find that the lots meet “excellence of design based on the spatial relationship of the panhandle lot to other lots and the public road” or “that such lots are inaccessible to the road due to odd shape and/or topographical constraints.” The Applicants panhandle justification letter is attached to this report as Exhibit 3.

- 7. Water and Sewer Facilities. Public Facilities §1-16-12 (C):** *The proposed subdivision shall be disapproved unless each building lot has been approved for individual and/or community sewerage and water facilities by the Health Department.*

The property has a water and sewer classification of No Planned Service and must utilize private wells and septic systems. The percolation tests have been performed. Wells must be drilled prior to lot recordation.

Subdivision Regulation Requirements Findings/Conclusions: If the Planning Commission finds that the panhandle lots meet the requirements of §1-16-219 (C)(2) and approves the use of a dead-end road network that is over 1,800 feet in length, the project will meet all Subdivision Regulation requirements once all agency comments and conditions are met.

C. OTHER APPLICABLE REGULATIONS

- 1. Stormwater Management – Chapter 1-15.2:** Stormwater management will be provided in accordance with the Maryland SWM Act of 2007. A SWM Concept Plan has been submitted and approved, and the SWM Development Plan has been conditionally approved.
- 2. APFO – Chapter 1-20:** This subdivision is subject to meeting APFO requirements for schools.

The following areas are addressed in the APFO Letter of Understanding (LOU) to be signed by the Applicant and the Planning Commission as a condition of approval of this preliminary plan. See attached Exhibit #2.

1. **Schools:** Attendance Areas: Twin Ridge ES, Windsor Knolls MS, Linganore HS. The Project is projected to generate 8 elementary school students, 5 middle school students and 6 high school students. Based on these numbers and considering enrollment projections from pipeline development, the school adequacy test fails at the middle and high school levels. The Developer has chosen the option to mitigate the school inadequacy by paying the School Construction Fees under Section 1-20-62 of the APFO. This Project is eligible to utilize the School Construction Fee option per the criteria set forth in Section 1-20-62 of the APFO. The School Construction Fees shall be paid prior to plat recordation based on the specific fees required by Section 1-20-62(E) at the time of plat recordation, per unit type and the school level(s) to be mitigated.
2. **Roads:** The Project will generate 27 am and 29 pm weekday peak hour trips, which does not meet the requisite 50 peak hour trip threshold required for testing, and because there are no existing escrow accounts in the area, no escrow account contributions are required, and therefore this Project is exempt from APFO – Roads requirements.
3. **Public Water & Sewer:** The Property has a water and sewer classification of No Planned Service (NPS) in the County's *Master Water and Sewer Plan*. Therefore the Water and Sewer APFO provisions are not applicable.

Period of Validity: The APFO approval is valid for three (3) years from the date of Commission approval; therefore, the APFO approval expires on November 13, 2016.

3. **Forest Resource Ordinance – Chapter 1-21:** A Combined Preliminary/Final Forest Conservation plan has been submitted and approved. The development site contains 0.05 acres of existing forest that will be removed as part of the development of Lot 14. The Applicant proposes to meet the FRO requirements by providing Forest banking Credits. FRO mitigation must be provided prior to lot recordation, grading permits, or building permits, whichever is applied for first.

Summary of Agency Comments

Other Agency or Ordinance Requirements	Comment
Development Review Engineering (DRE):	Conditional Approval.
Development Review Planning:	Hold. Must meet all agency and FcPc comments and conditions.
State Highway Administration (SHA):	N/A
Div. of Utilities and Solid Waste Mngt. (DUSWM):	N/A
Health Dept.	Conditional Approval: revise bedroom counts. Lot 4 has a max of 3 bedrooms. Lot 8 can permit 4 bedrooms. Lot 14 can permit 4 bedrooms. Wells must be drilled.
Office of Life Safety	Approved
DPDR Traffic Engineering	Approved
Historic Preservation	N/A

RECOMMENDATION

If the Planning Commission finds that the proposed subdivision meets the Ag Cluster provisions of the Zoning Ordinance and finds that approves the panhandle lots and dead-end road length as required by the Subdivision Regulations, then Staff has no objection to the conditional approval of the Preliminary Plan.

Based upon the findings and conclusions as presented in the staff report the application meets or will meet all applicable Subdivision, Zoning, APFO, and FRO requirements if the FcPc finds that the development meets the requirements of the Ag Cluster provisions, approves the use of panhandle lots in a major subdivision, and approves the dead-end road over 1,800 feet in length. Should the FcPc grant approval of this application (S-1155, AP 12180), including approval of the APFO (AP 12181), Staff recommends that the following items be added as conditions to the approval:

1. The Applicant shall comply with all Staff and agency comments through the completion of the plan.
2. FRO mitigation must be provided prior to lot recordation, grading permit application, or building permit application, whichever is applied for first.
3. The Preliminary Plan approval is valid for three (3) years from the date of FcPc approval. Therefore, the Preliminary Plan approval expires on November 13, 2016.
4. The APFO approval is valid for three (3) years from the date of FcPc approval. Therefore, the APFO approval expires on November 13, 2016.

PLANNING COMMISSION ACTION

MOTION TO APPROVE

I move that the Planning Commission **APPROVE S-1155 (AP 12180) with conditions** as listed in the staff report for the proposed Hattery Farm Agricultural Cluster preliminary plan, approval of the APFO (AP 12181), including the modification in accordance with §1-16-219 (C)(2) to permit panhandle lots in a major subdivision, and approval of the dead-end road over 1,800 feet in length, based on the findings and conclusions of the staff report and the testimony, exhibits, and documentary evidence produced at the public meeting.